



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

PIEDMONT REGIONAL OFFICE
4949-A Cox Road
Glen Allen, Virginia 23060
(804) 527-5020
Fax (804) 527-5106
www.deq.virginia.gov

Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO SAFETY-KLEEN SYSTEMS, INC. EPA ID Nos. VAD981043011 TXR000050930

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Safety-Kleen Systems, Inc., for the purpose of resolving certain alleged violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.

6. "Safety-Kleen" means Safety-Kleen Systems, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the Safety-Kleen Systems, Inc. facility, located at 1200 West 100 Road, in Chester, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VHWMR" means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. The Safety-Kleen facility in Chester, Virginia provides waste management services, including the transport, treatment, and disposal of hazardous waste. The facility is a large quantity generator of hazardous waste and a registered hazardous waste transporter.
2. On November 5th and 9th, 2004, DEQ conducted inspections of the Safety-Kleen facility. The following violations were noted during the inspections:
 - Failure to submit an unmanifested hazardous waste report to DEQ within 15 days of receiving three shipments of unmanifested waste.
 - Accepting a hazardous waste from a generator that is unaccompanied by a manifest signed in accordance with applicable regulations.
 - Failure to comply with the regulatory requirement to train employees to perform duties in a way that ensures the facility's compliance with the hazardous waste regulations.
 - Failure to correctly enter the U.S. EPA identification number on a manifest.
 - Failure to ensure that used oil that will be transported or stored at a transport facility is not a hazardous waste by testing the halogen content of the oil.
3. On March 24, 2005, a Notice of Violation (NOV) No. 2005-03-PRO-602 was issued for the above violations.
4. On April 28, 2005, a meeting was held to discuss the citations of the above Notice of Violation.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Safety-Kleen, and Safety-Kleen voluntarily agrees to pay a civil charge of \$10,400 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Safety-Kleen shall include its Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Safety-Kleen for good cause shown by Safety-Kleen, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Safety-Kleen by DEQ on March 24, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Safety-Kleen admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Safety-Kleen consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Safety-Kleen declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as

a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order,

6. Failure by Safety-Kleen to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Safety-Kleen shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Safety-Kleen shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Safety-Kleen shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Safety-Kleen. Notwithstanding the foregoing, Safety-Kleen agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Safety-Kleen. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Safety-Kleen from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Safety-Kleen voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7th day of September, 2005.

Robert G. Burnley, Jr. (for)
Robert G. Burnley, Director
Department of Environmental Quality

Safety-Kleen voluntarily agrees to the issuance of this Order.

Date: 7/28/05

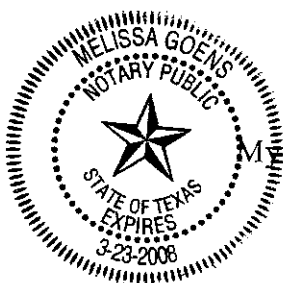
By: Virgil W. Duffie, III
Virgil W. Duffie, III
Assistant General Counsel, Environmental

Commonwealth/State of Texas

City/County of Collin

The foregoing document was signed and acknowledged before me this 28th day of July, 2005, by Virgil W. Duffie, III, who is
(Name)

Assistant General Counsel,
Environmental of Safety-Kleen, on behalf of the Corporation.
(Title)



Melissa Goens
Notary Public

My commission expires: 3/23/08